

CHAPTER 59. KINGS RIVER CONSERVATION DISTRICT ACT

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KINGS RIVER CONSERVATION DISTRICT ACT

An Act creating a district to be called "Kings River Conservation District"; providing for its organization, operation, maintenance and government, for the inclusion of lands therein and the exclusion of lands therefrom; providing for the acquisition, construction, maintenance and operation of works and property for the purposes of the district, including the storage, conservation, distribution and sale of water, the development, distribution and sale of electric power, the drainage, reclamation and protection of land and prescribing and defining the powers, duties, purposes and responsibilities of said district. (Stats.1951, c. 931, p. 2463.)

§ 59-1. Short title

Section 1. This act may be designated and referred to as the Kings River Conservation District Act, and may reference thereto by such description shall be sufficient for all purposes. (Stats.1951, c. 931, p. 2463, § 1.)

§ 59-2. Creation; name of district; boundaries

Sec. 2. A district is hereby created to be known and designated as Kings River Conservation District, and the boundaries and territory of said district are as follows:

(For description of boundary of the District see Appendix 59 to the Water Code.)

§ 59-3. Divisions

Sec. 3. Said district is hereby divided into six divisions, which shall be numbered and denominated Division One, Division Two, Division Three, Division Four, Division Five, and Division Six.

(For description of the boundaries of Divisions see Appendix 59 to the Water Code.)

§ 59-4. Legislative finding and determination

Sec. 4. The Legislature hereby finds and determines that the territory comprising said district and the lands thereof will be benefitted by the formation of said district; that the water problems in the district require the formation of the district; that these problems are not general or statewide; that many owners of rights to the waters of the Kings River and its tributaries, including irrigation districts, reclamation districts, mutual water companies and other public and private corporations and individual owners have entered into agreements for the distribution of waters from said river and its tributaries and that the distribution of such waters to a considerable extent is made in accordance with such agreements; that the effective distribution and conservation of such waters may be aided by the acquisition of storage space in the Pine Flat Reservoir created by the Pine Flat Dam now being constructed by the United States of America; that matters affecting the distribution, use and storage of the waters of the Kings River and its

tributaries, the future conservation and use thereof and the protection, drainage and reclamation of lands within the district can be most appropriately handled by the district herein provided for, and it is necessary to have a political entity embracing the areas having rights to said waters created in order to protect such rights and to meet the various problems affecting such water supply, including those hereinabove set forth; provided, however, that the Legislature further finds and determines that the district claims and has no present or future right to take, use, control, or distribute any of the waters of the Kings River, except for the right to the nonconsumptive use of such waters for the production of power, or except for such rights as the district may subsequently acquire by voluntary agreement with the holders thereof.

Investigation having shown that conditions in the area comprising said district to be peculiar to it, it is hereby declared that a general law cannot be made applicable to said district and that the enactment of this special law is necessary for the conservation, development, control, distribution and use of said waters of the Kings River and its tributaries and power developed thereby for the public good, for the protection, drainage and reclamation of lands within the district, for the protection and preservation of rights to water therein and for the purpose of meeting the various problems affecting such water supply, including those hereinabove set forth. (Amended by Stats.1979, c. 1108, p. 3986, § 1.5, urgency, eff. Sept. 28, 1979.)

§ 59-5. Definitions

Sec. 5. As used in this act the following words shall have the following meanings unless by the context otherwise indicated, and the definition of a word applies to any of its variants:

- (a) "District" means Kings River Conservation District.
- (b) "Board" means the board of directors of the district.
- (c) "President" means the president of the board.
- (d) "Secretary" means the secretary of the board.
- (e) "General district election" means the election required to be held in the district on the first Tuesday after the first Monday in November in each odd-numbered year.
- (f) "Special district election" means any district election other than a general district election.
- (g) "Elector," "Voter," and "precinct board" have, respectively, the same meanings as in the Elections Code, but an elector or voter shall also be a resident of the district and, when required, of a division thereof.
- (h) "Property" embraces all real and personal property.
- (i) "Works" includes conduits, canals, embankments, dams, reservoirs, wells, pumps, tunnels, powerhouses, power generating equipment, powerlines, and other appliances and other facilities useful in the control, conservation, drainage, diversion and transmission of waters and in the generation, control and transmission of electrical power, and all land, property, franchises, easements, rights-of-way and privileges necessary or useful to maintain any of the foregoing.
- (j) "Conduits" includes canals, laterals, ditches, flumes, pipes and their appurtenances.
- (k) "Operate" includes use, maintenance and repair.
- (l) "Street" includes road, alley, avenue, highway and public way.
- (m) "United States" includes the United States of America and all bureaus, commissions, divisions, departments, boards, agencies and officers of the United States of America.

(n) "State of California" includes the State of California and all bureaus, commissions, divisions, departments, agencies and officers of the State of California. (Stats.1951, c. 931, p. 2505, § 5, as amended Stats.1965, c. 2019, p. 4577, § 174, operative Jan. 1, 1967.)

§ 59-6. District as body politic and corporate; powers

Sec. 6. Kings River Conservation District is hereby declared to be and is a body politic and corporate and as such shall have, among others, the powers enumerated in this act and such other powers as the law may provide. (Stats.1951, c. 931, p. 2506, § 6.)

§ 59-7. Public use; district as public agency

Sec. 7. The use of all water and electrical energy required for the purposes of the district, together with all property for carrying out the purposes and business of the district, is a public use, and the district is a public agency of the State of California to carry out this public use. (Stats.1951, c. 931, p. 2506, § 7.)

§ 59-8. Exercise of powers

Sec. 8. The powers of the district shall, except as otherwise provided, be exercised by a board of seven directors, six of whom shall reside respectively in each of the six divisions but shall be elected by the entire district, and one shall be elected at large by the entire district: provided, however, that the first directors shall be appointed as herein provided. (Amended by Stats.1979, c. 1108, p. 4007, § 2, urgency, eff. Sept. 28, 1979.)

§ 59-9. Directors; organizational meeting

Sec. 9. At the first regular meeting in December after each general district election, the directors shall meet and organize as a board. (Amended by Stats.1968, c. 268, p. 596, § 43; Stats.1979, c. 1108, p. 4007, § 3, urgency, eff. Sept. 28, 1979; Stats.1984, c. 150, § 1.)

§ 59-10. Directors; president; vice-president; public meeting; quorum; procedure rules

Sec. 10. The board shall choose from its members a president and a vice president, who shall act as president during his absence or inability to act, and provide for the time and place of holding meetings and the manner in which its special meetings may be called. All legislative sessions of the board, whether regular or special, shall be open to the public. A majority of the board shall constitute a quorum for the transaction of business. The board shall also establish rules for its proceedings. (Stats.1951, c. 931, p. 2506, § 10.)

§ 59-11. Directors; action by ordinance, resolution and motion; record of votes; vote necessary; formalities of ordinances; compensation

Sec. 11. The board shall act only by ordinance, resolution or motion, and, except where action shall be taken by the unanimous vote of all directors present and voting, the ayes and noes taken upon the passage of all ordinances, resolutions and motions shall be entered upon the minutes of the board. No ordinance, resolution or motion shall be passed or become effective without the affirmative vote of at least a majority of the members of the board. The enacting clause of all ordinances passed by the board shall be in these words: "Be it ordained by the Board of Directors of Kings River Conservation District as follows:". All ordinances shall be signed by the president and attested by the secretary.

The compensation received by each director for sitting on the board shall be determined pursuant to Section 21166 of the Water Code. (Stats.1951, c. 931, p. 2506, § 11, as amended Stats.1981, c. 13, p. 27, § 1.)

§ 59-12. Appointment of officers and employees

Sec. 12. The board shall, at its first meeting or as soon thereafter as practicable, appoint a general manager, a secretary, and an auditor. No director shall be eligible to the office of general manager, secretary or auditor. The general manager, secretary and auditor shall receive such compensation as the board shall determine, and each shall serve at the pleasure of the board. The same person may be appointed as general manager and secretary or as secretary and auditor. The board may at any time also appoint an assistant secretary and appoint or employ and prescribe the authorities and duties of such other officers and employees, attorneys and engineers as may be necessary or convenient for the business of the district, each of whom shall serve at the pleasure of the board. The general manager, secretary, auditor and other employees and assistants of the district who may be required to do so by the board shall each give such bond to the district conditioned for the faithful performance of his duties as the board may provide. Any member of the board and the secretary may administer oaths when necessary in the performance of his official duties. (Stats.1951, c. 931, p. 2507, § 12.)

§ 59-13. Duties of officers

Sec. 13. The president or vice president shall sign, and the secretary or assistant secretary shall countersign, all deeds and instruments in writing which have been first approved or authorized by the board, unless the board directs some other officer or officers to execute the same. The president, vice president, secretary and assistant secretary shall perform such other duties as may be imposed by the board. The general manager, subject to the control and approval of the board, shall have full charge and control of the maintenance, operation and construction of the works and property of the district and shall have full power and authority to employ and discharge all employees and assistants, prescribe their duties and fix and alter their compensation. He shall perform such other duties as may be imposed by the board and report to the board in accordance with such rules and regulations as it may adopt. The auditor shall install and maintain a system of auditing and accounting that shall completely and at all times show the financial condition of the district. He shall draw warrants, which must be countersigned by the president or vice president, to pay demands made against the district when

such demands have been approved or authorized by the board. The board shall also designate a depository or depositories to have custody of the funds of the district, all of which depositories shall give security sufficient to secure the district against possible loss and who shall pay the warrants drawn by the auditor for demands against the district under such rules as the directors may prescribe. (Stats.1951, c. 931, p. 2507, § 13.)

§ 59-14. ~~Repealed.~~ Stats.1963, c. 1685, p. 3308, § 19.

Historical Note

The repealed Section,
added by Stats.1951, c. 931,
p. 2507, § 14, related to
liability of directors.
Liability of public
employees, see, now, Govern-
ment Code § 820 et seq.

Operative effect of Stats.
1963, c. 1685, p. 3307, see
Historical Note Under repeal
line for Water Code § 8535.

§ 59-15. Claims for money or damages; law governing; other claims; procedure

Sec. 15. Claims for money or damages against the district are governed by the provisions of Part 3 (commencing with Section 900) and Part 4 (commencing with Section 940) of Division 3.6 of Title 1 of the Government Code, except as provided therein. Claims not governed thereby or by other statutes or by ordinances or regulations authorized by law and expressly applicable to such claims shall be prepared and presented to the governing body, and all claims shall be audited and paid, in the same manner and with the same effect as are similar claims against the county. The district may employ counsel to defend any action or proceeding brought against it on account of any taking, injury, damage or destruction, or to defend as provided in Part 6 (commencing with Section 995) of Division 3.6 of Title 1 of the Government Code an action or proceeding brought against any of its officers, employees, or servants, and the fees and expenses involved therein are a lawful charge against the district. (Added Stats.1959, c. 1728, p. 4170, § 60, as amended Stats.1963, c. 1683, p. 3304, § 20; Stats.1963, c. 1715, p. 3423, § 150.)

Historical Note

Former Section 59-15,
added by Stats.1951, c. 931,
p. 2508, § 15, relating to damage
claims, was repealed by
Stats.1959, c. 1728, p. 4169,
§ 59.
Operative effect of
Stats.1963, c. 1683, p. 3304,
§ 20, see Historical Note under
Government Code § 995.

Applicability of Stats.
1963, c. 1715, p. 3369, see
Historical Note under Govern-
ment Code § 900.

Section 151 of Stats.1963,
c. 1715, p. 3424, provided:
"Section 150 of this act shall
become operative only if
Senate Bill No. 45, is enacted
by the Legislature at its 1963
Regular Session [Stats.1963,
c. 1683, p. 3296], and in such
case Section 106 of this act
is repealed."

§§ 59-16, 59-17. Repealed. Stats.1963, c. 1685, pp. 3308, 3309, §§ 20, 21

Historical Note

The repealed sections, added by Stats.1951, c. 931, p. 2508, §§ 16, 17, related to construction of former sections 59-14, 59-15 and to payment of judgments against director, officer, agent or employee.

Liability of public employees, see, now, Government Code § 820 et seq. Operative effect of Stats.1963, c. 1685, p. 3307, see Historical Note under repeal line for Water Code § 8535.

§ 59-18. Repealed by Stats.1970, c. 447, p. 896, § 29

§ 59-19. Ratification of formation of district; special election

Sec. 19. Within 30 days after the organization of the board appointed by the Governor, it shall by resolution provide for the holding of a special district election for the purpose of submitting to the voters the question of whether the organization of the district as provided herein shall be ratified and confirmed, and shall fix a date upon which such special district election shall be held, which date shall be not less than 30 nor more than 40 days after the adoption of such resolution. Such special district election shall be called and held in accordance with the provisions of Section 24 hereof insofar as the same may be applicable, but in addition to the matters and things required to be set forth in the proclamation therein provided for, such proclamation shall likewise set forth the proposition to be submitted to the voters. The proposition shall be submitted in substantially the following form: "Shall the organization of Kings River Conservation District as provided in the act adopted by the Legislature at its last regular session, known as Kings River Conservation District Act, be ratified and confirmed?" Opposite shall be the word "Yes" followed by a square wherein to mark the cross, and also opposite shall be the word "No" followed by a square wherein to mark the cross. The returns of the election shall be made to and the votes canvassed by the board on the first Tuesday which is six or more days after the election, and the results of the election shall be ascertained and declared in accordance with the provisions of Section 24 hereof. If such proposition is approved by a majority of the voters voting thereon at such election, the president and secretary of the board shall file, or cause to be filed, with the Secretary of State, and shall record, or cause to be recorded in the office of the county recorder of each county within which any portion of the district lies, a certificate stating the result of such election, the formation of the district under the provisions thereof, and its boundaries. Upon receipt of the certificate, the Secretary of State shall, within 10 days, issue his certificate reciting that the district has been duly incorporated. A copy of this certificate shall be transmitted to and filed with the county clerk of each county within which any portion of the district lies.

In the event a majority of the votes cast on the proposition are against the proposition, then the Board appointed by the Governor shall wind up the affairs of the district and enter an order dissolving the same, as hereinafter provided, but shall not exercise any powers herein granted except to the extent required to wind up such affairs and dissolve the district, nor shall any general or special district elections be called or held. The board shall dispose of and sell any

property belonging to the district and shall, pursuant to Sections 37, 38, and 39, cause a tax to be levied sufficient to pay the expenses and claims against the district, including the estimated cost and expense of winding up the affairs of the district. When all the obligations of the district have been paid, the board by resolution shall so declare and shall also declare that the district is dissolved, and thereupon the district shall be deemed duly and regularly dissolved. Any funds remaining on hand at the time of the dissolution shall be paid by the board into the general funds of each county in which any portion of the district lies in the proportion that the assessed valuation of lands within the district within each county bears to the total assessed valuation of the lands within the district. Any delinquent taxes from any levy made by the board and not collected prior to the dissolution of the district shall be retained by the county collecting the same and paid into its general funds. (Stats.1951, c. 931, p. 2509, § 19.)

§ 59-20. Boundaries; filing descriptions

Sec. 20. In the event the formation of the district is ratified and confirmed at the election, as soon thereafter as practicable and at least three months prior to the first general election the secretary shall file with the county recorder of each county within which any portion of the district lies a description of the boundaries of the divisions of the district, designating each by its number as provided in Section 3 hereof, together with a plat or map showing the boundaries of such divisions. (Stats.1951, c. 931, p. 2510, § 20.)

§ 59-21. Inclusion or exclusion of land; relocation of division boundaries

Sec. 21. Whenever any land is added to the district, the board, by ordinance, shall include it or any part thereof in such division or divisions as the board may determine, giving consideration to the location thereof and the interest of its inhabitants with respect to power and water and the sources of water supply therein; and the board shall relocate the boundary lines of the division or divisions to which such territory is added accordingly. Whenever any territory is excluded from the district, the board, by ordinance, shall relocate the boundary lines of the division or divisions within which such territory lies so as to exclude it from such division or divisions. No such change in a division or divisions may be made within three months immediately preceding a general election, nor shall such change work a forfeiture of office of any director. A certified copy of such ordinance, together with a map or plat showing the boundaries of such division or divisions as relocated thereby shall be filed with the county recorder of each county within which any portion of the district lies. (Stats.1951, c. 931, p. 2510, § 21.)

§ 59-22. Directors; first election; term of office

Sec. 22. The board appointed by the Governor shall also, by lot, divide the divisions into two groups, the first group to consist of three divisions and the second group to consist of three divisions. Each director elected at the first general district election from the divisions in the first group and the director elected at large from the entire district shall serve four years or until the election and qualification of his successor, and each director elected from divisions constituting the second group shall serve two years or until the election and qualification of his successor. The term of office of each director elected after the first general district election shall be four years or until the election and qualification of his successor. (Stats.1951, c. 931, p. 2510, § 22.)

§ 59-23. Directors; vacancies; oath

Sec. 23. All vacancies occurring in the office of director shall be filled by appointment by the remaining directors, and if a person appointed or elected fails to qualify, the office shall be filled as if there were a vacancy in the office. An appointment to fill the vacancy in the office of director shall be for the unexpired term for the office in which the vacancy exists. Before entering upon the duties of his office, each director shall take and subscribe the official oath and file it with the secretary. The oath of office may be taken before the secretary, any member of the board or any officer authorized by law to administer oaths. (Stats.1951, c. 931, p. 2511, § 23.)

§ 59-24. Applicability of Elections Code and Uniform District Election Law; election of directors

Sec. 24. Except as herein otherwise provided, the provisions of the Elections Code relating to the qualifications of voters, the manner of voting, the duties of election officers, the canvassing of returns and all other particulars with respect to the management of general elections so far as may be applicable shall govern all district elections; provided, however, that to the extent that the provisions of the Elections Code pertaining to the conduct of local elections are inconsistent with the provisions of that code pertaining to general elections, the provisions of the Elections Code pertaining to local elections shall control; provided further, that to the extent the provisions of the Uniform District Election Law are inconsistent with the provisions of the Elections Code pertaining to general or local elections, the provisions of the Uniform District Election Law shall control. The election of directors shall be held on the first Tuesday after the first Monday in November in each odd-numbered year, and each director must be an elector and resident of the division for which he is elected, except the director elected at large who may be an elector and resident of any division.

The candidate receiving the highest number of votes cast for the office of director for a specific division shall be declared elected. The candidates for the office of director at large receiving the highest number of votes cast in the district shall be declared elected. (Amended by Stats.1979, c. 1108, p. 4007, § 4, urgency, eff. Sept. 28, 1979.)

§ 59-24.1 Repealed. Stats.1965, c. 2019, p. 4579, § 177, operative Jan. 1, 1967.

Historical Note

The repealed section, added by Stats.1961, c. 523, p. 1627, § 16, related to publication of notice that election may be made.

See Uniform District Election Law, Elections Code § 23500 et seq.

§ 59-25. Recall

Sec. 25. Every incumbent in the office of director, whether elected by popular vote for a full term or appointed, may be recalled by the voters in accordance with the recall provisions of the Uniform District Election Law. (Stats.1951, c. 931, p. 2515, § 25, as amended Stats.1967, c. 28, p. __, § 11, urgency, eff. April 6, 1967.)

§ 59-26. District Powers

Sec. 26. The district shall have the following powers, including those necessarily implied therefrom:

- (1) To have perpetual succession.
- (2) To sue and be sued except as otherwise provided herein or by law in all actions and proceedings in all courts and tribunals of competent jurisdiction.
- (3) To adopt a seal and alter it at pleasure.
- (4) To do any and every lawful act necessary to be done to furnish water and electrical energy in the district for any present or future beneficial use or uses, including, without limiting the generality of the foregoing, irrigation, domestic, fire protection, municipal, power and other beneficial uses.
- (5) To take by grant, purchase, gift, devise, lease, either with or without the privilege of purchase, or otherwise, and to hold, use, enjoy, and to lease and dispose of real and personal property of every kind within or without the district necessary to the full exercise of its powers.
- (6) To construct purchase, lease, or otherwise acquire water works and other works and machinery, canals, conduits, and reservoirs and to purchase, lease or otherwise acquire water rights, storage rights, storage sites, water sheds, lands, rights and privileges useful or necessary to convey, supply, store or otherwise make use of water for any purposes authorized by this act and to operate and maintain the same for the benefit of the district.
- (7) To construct, purchase, lease or otherwise acquire works for the generation, transmission, distribution, sale and lease of electric power, including the sale and disposition thereof to municipalities, districts, corporations or persons and to do all necessary and proper acts for the construction and operation of such electric power works.
- (8) To appropriate, acquire and conserve water and water rights for any useful purpose, and to store and conserve water for future use.
- (9) To commence, maintain, intervene in and compromise in the name of the district and to assume the costs of any action or proceeding involving or affecting the ownership or use of water or water rights within the district used or useful for any purpose of the district; to commence, maintain, intervene in, defend and compromise actions and proceedings to prevent interference with or diminution of the natural flow of any stream or natural underground supply of waters used or useful for any purpose of the district or a common benefit to lands within the district or its inhabitants; and to commence, maintain and defend actions and proceedings to prevent any interference with such waters as may endanger the inhabitants or lands of the district or as may impair, damage or threaten the exercise of any right to waters belonging to the district or a common benefit to lands within the district or to its inhabitants.
- (10) To sell water or the use thereof for any useful purposes and, when there is a surplus, to sell and otherwise dispose of the same to municipalities, public agencies or to consumers or users including publicly and privately owned utilities, mutual water companies, corporations and persons without the boundaries of the district.

(11) To sell, dispose of and distribute electric power for any useful purpose, and, when there is a surplus, to sell or otherwise dispose of the same to consumers or users including public and private corporations without the boundaries of the district.

(12) To exercise the right of eminent domain to take any property necessary or convenient for carrying out the purposes of this act except that the district shall not have power to acquire by condemnation any property held or used for the development, storage, or distribution of water for public use.

(13) To borrow money and incur indebtedness and to issue bonds or other evidences of indebtedness; also to refund and retire any indebtedness or lien that may exist against the district or the property thereof.

(14) To make contracts, employ labor and do all acts necessary for the full exercise of the powers of the district. The board may cause construction or other work to be performed or carried out by contract or by the district under its own superintendence.

(15) To sell or lease any lands belonging to the district for oil, gas, or other hydrocarbon substances or other minerals when deemed by the board to be in the best interest of the district, subject, however, to the provisions of Chapter 5 (commencing with Section 7051), Part 2, Division 6, of the Public Resources Code.

(16) To cooperate, act in conjunction and contract with the United States, State of California, municipalities, public and private corporations of any kind and persons in the construction of any works for storing, conserving or distributing waters of the district or belonging to any inhabitant or owner of land or water rights therein or for the control of flood and storm waters, the draining or reclaiming of lands, the protection of property, water sheds, water courses, underground supplies, highways or levees or for the purpose of conserving, storing, salvaging, recapturing, distributing, or transporting such waters for beneficial use or uses of the district or of the owners of rights to water therein, and for the use, operation, management and control of such works; to make and perform any agreement with the United States, the State of California, any public or private corporation of any kind and any person, or any of them, for the joint acquisition, disposition or operation of any property or works of a kind which might be acquired, disposed of or operated by the district.

(17) To cooperate and contract with the United States under the Federal Reclamation Act of June 1902, and all acts amendatory thereof or supplementary thereto or any other act of Congress heretofore enacted authorizing or permitting such cooperation or contract for the purpose of construction of works, whether for irrigation, drainage, flood control or for the development of electric or other power, or for the acquisition, purchase, extension, operation or maintenance of such works, or for a water supply, or for the assumption as principal or guarantor of indebtedness to the United States and to carry out and perform the terms of any contract so made, and for said purposes the district shall have all powers, rights and privileges possessed by irrigation districts and, except as herein otherwise provided, shall exercise such powers, rights and privileges in the same manner and subject to the same restrictions and limitations as irrigation districts, all as provided in Chapter 2 (commencing with Section 23175) of Part 6 of Division 11 of the Water Code, as such provisions now exist; provided, however, that in any such contract made by the district and the United States, the land which may be charged with any taxes or assessments under such contract shall be designated and described, and the contract shall not include any lands which will not be benefitted by the works or system contemplated under such contract, nor shall it impair, restrict, or provide for the control of any right in or to water or the use thereof without the consent of the owner of such right. Such contract may exempt from tax or assessment any land benefitted by the works or system contemplated by such contract if such land, or any agency on its behalf, has paid to the district or the United States its proper share of the construction costs of such works or system. Such

contract may provide for the release of the land described therein, or any portion thereof, from any tax or assessment upon payment to the district or the United States of its proper share of the construction cost of such works or system. Nothing herein contained shall prevent the district, whether pursuant to any such contract or otherwise, from levying taxes or assessments for the cost of the operation and maintenance of any such works or system, subject, however, to the limitations provided in Section 37 of this act. The proceedings for voting at an election upon a proposal to enter into such contract with the United States shall be had, insofar as applicable, in the manner provided in the case of the issuance of district bonds; provided, however, that in the event the board shall determine that all liabilities of the district incurred under the provisions of such contract can be repaid and liquidated as to both principal and interest from revenues from the works or system contemplated under such contract and payments made to the district by public or private corporations or persons pursuant to written contracts providing for the payment of whatever amounts may be necessary to amortize the portion of said cost which may under said contracts be underwritten by such corporation or persons, then upon the adoption of such resolution the board shall have power on behalf of the district, without the necessity of an election, to enter into such repayment contracts with the United States, subject to all provisions of this act applicable to such contracts except provisions requiring an election to authorize such contracts; provided further, however, no such contract shall charge any land with any tax or assessment for the payment of the cost of constructing the works or system contemplated in such contract. In the event that the revenues of the district from the works contemplated by any contract approved at an election shall be, or in the judgement of the board are likely to be, inadequate to pay all charges payable to the United States under such contract and all charges for construction, acquisition, operation and maintenance of the works acquired or constructed under such contract, a tax shall be levied for the payment of such charges on the land in the portion of the district designated and described in such contract as the territory to be charged therewith.

(18) To conserve and store water, including storm and flood waters, by means of any works authorized in this act and by spreading and sinking the same in any underground basin or basins or the gravels and detritus thereof by any means appropriate therefor, which storage and conservation, whether surface or underground, may be made by the district on its own behalf or on behalf of any owner of the right to the water so stored or conserved on such terms and conditions as may be fixed by the board and the owner; and the district or the owner in whose behalf it acted, when waters are so stored and conserved, may recapture and use the same for any beneficial purpose or use or may permit the recapture and use thereof by others under such terms and conditions as may be fixed by the board or by such owner and the board if conserved and stored on behalf of the owner; and the district may contract with others for the use of any property, conduits, canals, ditches, reservoirs or reservoir sites or dams or other facilities for the purpose of conserving, storing, spreading, or sinking, transporting or distributing such waters.

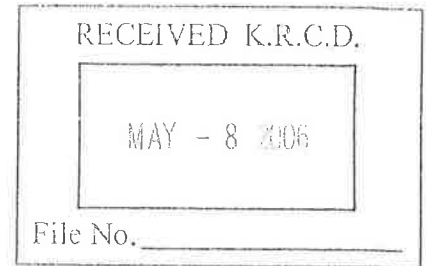
(19) To control flood and storm waters within the district and flood and storm waters of streams or watercourses outside of the district which flow into the district and conserve such waters by storage either surface or underground, to divert and transport such waters for beneficial uses within the district and otherwise to reduce the waste of water and protect life and property from floods within the district.

(20) To drain and reclaim lands within the district either by surface or underground works or both; and to divert, store, conserve, transport and dispose of water resulting from such operations for any beneficial use. (Amended by Stats.1975, c. 586, p. 1271, § 7.)

KRONICK
MOSKOVITZ
& TIEDEMANN
& GIRARD
A PROFESSIONAL CORPORATION

EDWARD J. TIEDEMANN
etiedemann@kmtg.com

May 3, 2006



Mr. Lynden L. Garver
Kings River Conservation District
4886 E. Jensen Avenue
Fresno, CA 93725

Re: WRIME Agreement

Dear Lyn:

I reviewed the proposed agreement for consulting and development services between Kings River Conservation District and Water Resources & Information Management Engineering, Inc. (WRIME), which you sent to me today. I also reviewed the provisions in the Kings River Conservation District Act regarding bidding. These are found in Section 28 of the Act. That section provides that contracts for the construction of works and the furnishing of materials, equipment and supplies requiring the expenditure of \$50,000 or more are subject to competitive bidding and are to be awarded to the lowest responsible bidder unless the work is to be performed by the District with its own forces. The contract for WRIME is not for construction of works nor for the furnishing of materials, equipment or supplies and therefore does not come under Section 28. There is nothing else in the KRCD Act nor in any of the California Codes in general, or the California Public Contract Code in particular, that I am aware of that in any way requires KRCD to let contracts for the work provided for in the WRIME contract by competitive bidding. On the contrary, contracts for professional services such as that required in the WRIME contract have not been subject to competitive bidding. Based on this it is my conclusion that the District can proceed with the execution of the agreement with WRIME if it chooses to do so without asking for competitive bids, requests for proposals or anything else.

Sincerely,


Edward J. Tiedemann

EJT/djk
828680.1

App. § 59-27

KINGS RIVER

§ 59-27. Works across streets, railways, etc.

Sec. 27. The district shall have power to construct works along, under or across any road, street, alley, avenue or highway or across any stream of water, water course, railway, canal, ditch or flume which the route of said works may intersect or cross, but provided such works are constructed in such manner as to afford security for life and property, and the district shall restore any such crossings and intersections to their former state as near as may be or in a manner not to have impaired unnecessarily their usefulness, and shall comply with all lawful rules and regulations of the owner or agency in charge thereof. Every person and corporation, either public or private, whose right of way shall be intersected or crossed by said works, shall unite with the district in forming said intersections and crossings and grant such rights therefor as may be agreed upon between them and the district. The right of way is hereby given, dedicated and set apart to locate, construct and maintain said works over and through any of the lands which are now or may be hereafter the property of the State of California, and the district shall have the same rights and privileges thereto appertaining as heretofore or as may be granted to municipalities within the State, except that where such land is already devoted to public use, any expense necessary to permit the joint use of such land shall be borne by the district.

(Stats.1951, c. 931, p. 2519, § 27.)

Library References

Sovereign immunity study. Cal.Law Revision
Comm. (1963) Vol. 5, p. 93.

AMENDMENT

§ 59-28. Rates and charges; rules; methods for construction of works and furnishing materials, etc.; bids

Sec. 28. The board shall fix all water and power rates and all other charges for services or work done by the district and shall, through the general manager, collect the same. The board may establish suitable rules and regulations for the sale, distribution, and use of water and power and other services that may be rendered by the district and made therein and may provide that water, power, or services shall not be furnished to those against whom there are delinquent rates or charges.

The board may prescribe methods for the construction of works and the furnishing of materials, equipment, and supplies and for the letting of contracts therefor. However, any such contract requiring the expenditure of fifty thousand dollars (\$50,000), or more, shall be subject to competitive bidding, after advertisement therefor, and awarded to the lowest responsible bidder, except where the construction or work is to be done or performed by the district with its own forces upon force account.

(Stats.1951, c. 931, p. 2520, § 28. Amended by Stats.1998, c. 142 (S.B.1860), § 19.)

Library References

Waters and Water Courses ⇐228½.
WESTLAW Topic No. 405.
C.J.S. Waters § 321.

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Law Revision Commission Comment
1975 Amendment

The deleted portion of subdivision
(12) of Section 26 [Water C.App.
§ 59-26] is superseded by the

Eminent Domain Law. See Code
Civ. Proc. § 1230.020.

§ 59-27. Works across streets, railways, etc.

Sec. 27. The district shall have power to construct works along, under or across any road, street, alley, avenue or highway or across any stream of water, water course, railway, canal, ditch or flume which the route of said works may intersect or cross, but provided such works are constructed in such manner as to afford security for life and property, and the district shall restore any such crossings and intersections to their former state as near as may be or in a manner not to have impaired unnecessarily their usefulness, and shall comply with all lawful rules and regulations of the owner or agency in charge thereof. Every person and corporation, either public or private, whose right of way shall be intersected or crossed by said works, shall unite with the district in forming said intersections and crossings and grant such rights therefor as may be agreed upon between them and the district. The right of way is hereby given, dedicated and set apart to locate, construct and maintain said works over and through any of the lands which are now or may be hereafter the property of the State of California, and the district shall have the same rights and privileges thereto appertaining as heretofore or as may be granted to municipalities within the State, except that where such land is already devoted to public use, any expense necessary to permit the joint use of such land shall be borne by the district. (Stats.1951, c. 931, p. 2519, § 27.)

§ 59-28. Rates and charges; rules; methods for construction of works and furnishing materials, etc; bids

Sec. 28. The board shall fix all water and power rates and all other charges for services or work done by the district and shall, through the general manager, collect the same. The board may establish suitable rules and regulations for the sale, distribution, and use of water and power and other services which may be rendered by the district and made therein and may provide that water, power or such services shall not be furnished to those against whom there are delinquent rates or charges.

The board may prescribe methods for the construction of works and the furnishing of materials, equipment and supplies and for the letting of contracts therefor; provided, however, that any such contract requiring the expenditure of ten thousand dollars (\$10,000), or more, shall be subject to competitive bidding, after advertisement therefor, and awarded to the lowest responsible bidder, except where the construction or work is to be done or performed by the district with its own forces upon force account. (Stats.1951, c. 931, p. 2520, § 28.)

AMMEND

§ 59-28.5 Improvement districts; formation; board powers and duties; assessments

Sec. 28.5. Improvement districts may be formed in the district for any authorized purpose of the district in the same manner as improvement districts are formed in irrigation districts. When formed, the improvement districts shall be governed under Part 7 (commencing with Section 23600) of Division 11 of the Water Code in the same manner as improvement districts in irrigation districts. The board has the same rights, powers, duties, and responsibilities with respect to the formation and government of improvement districts in the district that the board of directors of an irrigation district has with respect to improvement districts in irrigation districts. Assessments in an improvement district in the district shall be levied, collected, and enforced at the same time and as nearly in the same manner as practicable as annual taxes of the county, except that the assessment shall be made in the same manner as provided with respect to improvement districts in irrigation districts. (Added by Stats.1992, c. 300 (A.B. 2603), § 3.)

Historical and Statutory Notes

1992 Legislation

Section 5 of Stats. 1992, c 300
(A.B. 2603), provides:

"The legislature finds and declares that Section 3 of this act, which is applicable only to the Kings River Conservation District, is necessary because of the unique and special problems in the area included in the

district. It is, therefore, hereby declared that a general law within the meaning of Section 16 of Article IV of the California Constitution cannot be made applicable to the district and that the enactment of this special law is necessary for the control and use of water in the district for the public good."

§ 59-29. Bonds; preliminary proceedings; election; provision for form and execution

Sec. 29. Whenever the board deems it necessary for the district to incur a bonded indebtedness, it shall by resolution so declare and state in said resolution the purpose for which the proposed debt is to be incurred and the amount thereof, and shall by said resolution fix a time and place for a hearing by the board on the question as to whether the whole district or only a portion thereof will be benefitted by the accomplishment of said purpose, and if only a portion thereof will be so benefitted, what portion thereof will be so benefitted. Notice of such hearing shall thereupon be given by the secretary by publication of a copy of said resolution in one newspaper of general circulation, printed and published in each county within which any portion of the district lies at least once a week for two weeks prior to the hearing. Said copy of said resolution so published shall be accompanied by a notice subscribed by the secretary to the effect that the hearing referred to in said resolution will be had at the time and place specified in said resolution and that at said time any person interested, including all persons owning property in said district will be heard upon the question stated in said resolution.

At the time and place fixed in said resolution for said hearing or at such time and place to which said hearing may be adjourned, the board may proceed with the hearing, and any person interested, including any and all persons owning property within the district, may appear and present any and all such matters material to the questions as he may desire. Upon the conclusion of the hearing, the board shall by resolution determine whether the whole of the district will be

benefitted by the accomplishment of the purpose stated; and if it determines that the whole of the district will not be so benefitted by the accomplishment of such purpose, it shall state what portion of the district will be so benefitted; and that portion of the district so described shall thereupon constitute and be known as Improvement District No. __ of Kings River Conservation District; and the proceedings thereafter, for the purpose of the bond election within said improvement district and for the purpose of taxation for the payment of said bonds and interest, shall be limited and apply only to said improvement district. The determination of the board on this question shall be final and conclusive.

If the board by such resolution determines that only a portion of the district will be benefitted and creates an improvement district as hereinabove provided, it shall adjourn the hearing for not less than 40 nor more than 70 days. Within 10 days after such order of adjournment, the secretary shall publish once in one newspaper of general circulation, printed and published in each county within which any portion of the improvement district lies, a notice stating the time and place fixed for the adjourned hearing, and that at or prior to such hearing any person owning land in said improvement district may file written protest to the incurring of the proposed bonded indebtedness by such improvement district, and at the time and place fixed any person interested may appear and be heard on the question of whether such bonded indebtedness should be incurred by such improvement district. If at or prior to the adjourned hearing written objections to the incurring of the proposed bonded indebtedness by such improvement district, signed by the owners of the majority of the acreage of land within such improvement district are filed with the secretary, then the board, by resolution adopted at the hearing, shall abandon proceedings for the proposed bond issue. The last equalized assessment roll of each county containing land within such improvement district is prima facie evidence of ownership of land in that county. If the proceedings are not abandoned as hereinabove provided, the board, if it deem it necessary to incur such bonded indebtedness, shall by a resolution so declare and state the purpose for which the proposed debt is to be incurred, whether or not the whole of the district is to be benefitted thereby or only a portion thereof, and if only a portion thereof a description of such portion sufficient for identification and the designation thereof, all in accordance with the determination of the board as expressed in its previous resolution, the amount of the debt to be incurred, the maximum term the bonds to be issued shall run before maturity, which shall not exceed 40 years, and the amount or rate of interest to be paid, which shall not exceed 5 percent, payable annually or semiannually, and the proposition to be submitted to the voters of the district or of the improvement district, as the case may be.

The board shall fix a date upon which an election shall be held for the purpose of authorizing said bonded indebtedness to be incurred, and shall provide for the holding of such special election on the date so fixed. Such special election may be held concurrently with a general district election. Such special election shall be called and held in accordance with the provisions of Section 24 hereof insofar as the same may be applicable, but in addition to the matters and things required to be set forth in the proclamation therein provided for, such proclamation shall likewise contain a copy of the resolution declaring the necessity to incur such bonded indebtedness hereinabove referred to. The returns of the election shall be made to and the votes canvassed by the board on the first Tuesday which is six or more days after the election, and the results of the election shall be ascertained and declared in accordance with the provisions of Section 24 hereof. As soon as the result is declared, the secretary shall enter in the records of the board his statement of the result. No irregularity or informality in the conduct of the election shall invalidate the election if fairly conducted.

If from such returns it appears that more than two-thirds of the votes cast at such election were in favor of incurring the indebtedness, the board may by resolution at such time or times as it deems proper provide for the form and execution of such bonds and for the issuance of any part thereof and may sell or dispose of the bonds so issued at such times and in such manner as the board deems to be to the public interest. (Stats.1951, c. 931, p. 2520, § 29.)

§ 59-30. Refunding Bonds

Sec. 30. The board may by resolution submit to the voters of the district a measure to issue new bonds to refund any or all of the district bonds outstanding or submit to the voters of any improvement district a measure to issue new bonds to refund any improvement district bonds outstanding, which measure may be voted on at any general or special district election, and the procedure upon such election shall be in accordance so far as is applicable with the procedure upon an original issue of bonds, except that no hearing need be held upon the question whether the bond issue will benefit the entire district or only a portion thereof, and the vote of a majority of the voters voting upon the measure shall be sufficient to authorize the issuance of refunding bonds. The refunding bonds shall not bear a higher rate of interest than the bonds to be refunded and may be issued and sold in the manner and form prescribed for an original issue of bonds. Refunding bonds may, if the holders of bonds of an original issue and the board so agree, be exchanged for original bonds. The face value of refunding bonds exchanged for original bonds shall not exceed the face value of original bonds. The board may raise money by water or power rates or taxes to pay principal and interest of the refunding bonds in the same manner as prescribed for the payment of bonds of an original issue. (Stats.1951, c. 931, p. 2522, § 30.)

§ 59-31. Bonds; callable for redemption.

Sec. 31. Any bonds, original or refunding, issued by the district, may be made callable by a resolution of the board adopted at or prior to the time of issuing such bonds, which may provide for the calling and redemption of such bonds in numerical order or by lot on any interest payment date prior to their fixed maturity at not exceeding the par value thereof and accrued interest or on such other terms as may be provided therein. If any such bonds are so made callable, a statement to that effect shall be set forth on the face of the bond. Notice of any such call or redemption shall be published in one newspaper of general circulation, printed and published in each county within which any portion of the district lies. The first publication of such notice shall not be less than 30 nor more than 90 days prior to the date fixed for such redemption. After the date fixed for such redemption, if the district shall have provided funds available for the payment of the principal and interest for the bonds so called, interest on such bonds shall thereafter cease. (Stats.1951, c. 931, p. 2522, § 31.)

§ 59-32. Nature of district; bonds as legal investments

Sec. 32. The Kings River Conservation District is hereby declared to be a district within the meaning of that term as used in Section 13 of Article XI and Section 1 3/4 of Article XIII of the Constitution of the State of California and Section 20003 of the Water Code.

Bonds of the district shall be legal investments for all trust funds and for the funds of all insurance companies, banks, both commercial and savings, trust companies, and for school funds. Whenever any money or funds may by law now or hereafter enacted be invested in bonds of cities, cities and counties, counties, school districts, or municipalities in the State of California, such money or funds may be invested in bonds of the district, issued in accordance with the provisions of this act. Whenever bonds of cities, cities and counties, counties, school districts, or municipalities may by any law now or hereafter enacted be used as security for the performance of any act, the bonds of the district may be so used. (Stats.1951, c. 931, p. 2523, § 32.)

§ 59-33. Revenue Bonds.

Sec. 33. Construction; authorization; resolution; election; remedies of bondholders; expense of issue. The term "construction" or any of its variants when used in this section, unless the context otherwise requires, means and includes the physical construction, reconstruction, renewal, extension, or repair of works; also the acquisition or control of works or any right therein or thereto by purchase, lease, contract, or in or by any manner whereby any right, title or interest in or to property is capable of being acquired or transferred. For the purpose of providing money and funds to pay the cost and expense of the construction of any works authorized hereunder, the board may issue revenue bonds. The board, if it deems it necessary to issue such revenue bonds, shall by resolution so declare and state the purpose or purposes for which the revenue bonds are proposed to be issued, the principal amount of the bonds to be issued therefor, the maximum amount of interest to be paid on such bonds, which shall not exceed 5-1/2 percent, payable annually or semiannually, and the proposition to be submitted to the voters of the district, and said resolution shall also state that such bonds are to be revenue bonds, the principal and interest of which are payable only from the revenues from the use or operation of the works for the construction of which such bonds are to be issued and are not to be secured by the taxing power of the district. The board shall fix a date upon which an election shall be held for the purpose of authorizing the issuance of such revenue bonds. Notice of the election shall be given, the election held and the result determined substantially in the manner provided for the incurring of a bonded indebtedness as provided in Section 29 hereof. If from the returns it appears that more than two-thirds of the votes cast at such election were in favor of the issuance of such revenue bonds, the board may by resolution provide for the issuance thereof. Such bonds shall be issued in the name of the district and shall be designated as "Kings River Conservation District Revenue Bonds." In the resolution providing for the issuance of such bonds, the board may limit, restrict, and regulate the holding, deposit, investment and application of money consisting of the proceeds from the sale of the bonds or the revenue received from the operation of the works or project to be financed thereby, and such provisions shall constitute a contract with the holders of the bonds and be binding upon the district as long as the bonds are outstanding; and while any bonds remain outstanding, the powers, duties or existence of the district or any official thereof shall not be diminished or impaired in any manner that will adversely affect the interest and rights of the holders of the bonds. Any holder of any bond may by mandamus or other appropriate proceeding require and compel the performance of any of the duties imposed upon the district or any official thereof with respect to the construction of the works or project and the collection, deposit, application and disbursement of all revenues derived from the use and operation thereof and the deposit and disbursement of the proceeds received from the sale of such bonds. In addition thereto the holders of bonds may exercise or prosecute any other rights or remedies which they may have. Temporary or interim bonds, certificates or

receipts of any denominations and with or without coupons attached thereto may be issued and delivered until definitive bonds are executed and available for delivery. Any expense incurred by the district for advertising, engraving, printing, clerical, legal or other services necessary to properly perform the services and duties relating to the sale and issuance of such bonds shall be paid from the proceeds of the sale of such bonds. Such bonds shall contain a recital on the face thereof that the payment or redemption of the bonds and the payment of interest thereon is secured by a first and direct charge and lien upon the revenues of any nature whatever received from the operation of the works for the construction of which the bonds are issued and that neither the payment of the principal, or any part thereof, nor any interest thereon constitutes a liability or obligation of the district except to the extent that such payment can be made from such revenues. The payment of both principal and interest of all such bonds shall be secured only by the rates, charges and revenues established or accrued for the use and operations of the works for the construction of which bonds are issued and shall be made from such revenues. Both redemption and interest payments shall constitute a first and direct charge and lien on all revenues received from the operation of such works, on all interest accrued from such revenues, and on all sinking funds created out of such revenues. The collection of revenue shall be continued until all bonds, with interest thereon, are fully redeemed and paid.

Form and contents; interest; place of payment; retirement; sale. The Board shall determine the form, conditions and denominations of all bonds and the dates which the bonds shall bear. It shall determine the interest rate on all bonds, which shall not exceed 5-1/2 percent per annum; provided, however, that bonds of the same issue may bear different rates of interest. Principal and interest on bonds shall be payable at such place or places as may be fixed and determined by the board and such bonds may contain provisions for registration thereof as to principal only or as to both principal and interest. The bonds shall be issued in coupon form with interest payable at such times as may be determined by the board and shall mature at such times and in such amount as the board prescribes. The board may provide for the retirement of such bonds at any time or times prior to their maturity and in such manner and upon payment of such premiums as may be fixed and determined in the proceedings providing for the issuance thereof. Such bonds may be issued and sold from time to time and in such amounts as may be necessary in the judgement of the board to provide sufficient funds for the construction of the works and to pay all costs and expenses, including interest due and payable, prior to and during the period of actual construction thereof and for a period of one year after completion thereof and the proceeds from the bonds are hereby made available for this purpose. Such bonds may be sold below the par or face value thereof, but the selling price shall not be less than that which will yield the purchaser not to exceed 5-1/2 percent per annum according to the standard tables of bond values, and the sale price shall include the interest which has accrued thereon up to the date of the delivery of the bonds. Successive issues of bonds shall have equal preference with respect to the redemption thereof and the payment of interest thereon, but the district may fix different maturity dates serially or otherwise for successive issues. All such bonds are hereby declared to be negotiable instruments. All bonds issued and sold shall be sold on sealed proposals to the highest and best bidder after such advertising for bids as the board deems proper, except that the board may reject all bids and thereafter sell the bonds at private sale under such terms and conditions as the board deems most advantageous, but not at a price below that of the best bid which was rejected.

Proceeds of sale. The proceeds from the sale of such bonds shall be deposited by the district in a depository authorized by law to receive such deposits of the district, to the credit of the construction fund for the construction of such works, and the proceeds shall be paid out solely

for the construction of the works, surveys and preparation of plans and specifications therefor, the payment of all other costs and expenses prior to and during construction, the acquisition of the necessary water, water rights, rights of way, easements, lands, electric power, power resources and facilities, other property of every kind and description and any appurtenances to any such property necessary for such works and project, the payment of interest becoming due and payable on bonds prior to and during the period of actual construction and for the period of one year after the completion of such construction, and all costs and expenses during the period of one year after such completion as the need therefor shall arise. The district may agree with the purchasers of bonds upon any conditions or limitations restricting the disbursement of the proceeds that may be deemed advisable for the purpose of assuring the proper application thereof. From the money deposited in the construction fund, the board shall transfer to the place or places of payment named in the bonds the sums required to pay interest as it becomes due on all bonds sold and outstanding for the construction of the works during the period of actual construction and during the period of one year after completion thereof, and thereafter shall transfer from the revenue fund into which shall be paid all revenues accruing from the use and operation of said works to the place or places named in the bonds the sum required to pay interest on the bonds and redeem the principal thereof, as such interest payments and bond redemptions fall due for all bonds issued and sold. All funds transferred for the payment of principal and interest on such bonds shall be segregated and applied solely for the payment of principal and interest.

Underwriting agreements. Any person or public or private corporation may, by contract with the district, underwrite or assume the payment in whole or in part of the cost of the construction of any such works, and in the event such contract shall be made, all payments received thereunder shall be deemed to be revenues of such works and shall be subject to the terms and provisions of this section respecting the revenues thereof.

Surplus in construction fund. Any surplus which exist in the construction fund shall be applied to the retirement of bonds issued for the construction of the works by purchase or call; provided, however, that in the event the bonds cannot be purchased at a price satisfactory to the board and are not by their terms callable prior to maturity, such surplus shall be paid into the fund applicable to the payment of principal and interest of the bonds and shall be used for that purpose; provided further, however, the proceedings authorizing the issuance of bonds may provide limitations and conditions upon the time and manner of applying such surplus to the purchase and call of outstanding bonds. The terms upon which the bonds shall be purchased or called and the conditions provided for in the proceedings authorizing their issuance shall be followed and observed in the application and use of such surplus.

Refunding revenue bonds. In like manner the board may issue any revenue bonds to refund and pay outstanding revenue bonds; provided, however, that such bonds shall not be for a higher rate of interest than the bonds proposed to be refunded, and the purchase price paid therefor shall not be less than the total amount of interest and principal accrued upon the bonds to be refunded, and the board may provide for the exchange of refunding bonds for the original bonds; provided, the face value of the refunding bonds so exchanged shall not exceed the face value of the original bonds. (Stats.1951, c. 931, p. 2523, § 33.)

§ 59-33.1. Interest on bonds

Sec. 33.1. Notwithstanding the provisions of Sections 54382 and 54402 of the Government Code and any other provisions of law, the board may determine and provide, in any resolution providing for the issuance of bonds pursuant to the Revenue Bond Law of 1941 (commencing with Section 54300 of the Government Code), for interest on the bonds at a rate or rates not exceeding 18 percent a year, payable annually or semiannually, if, before the issuance of the bonds, the board determines, to the best of its knowledge and belief, that the interest on the bonds will be subject to federal income taxation under then existing law. (Added by Stats.1976, c. 1480, p. 6615, § 4. Amended by Stats.1981, c. 216, p.1139, § 2, urgency, eff. July 19, 1981.)

59-33.2. Sale of bonds authorized for Dinkey Creek hydroelectric project and related facilities; managing underwriters

Sec. 33.2. Notwithstanding Section 54388 of the Government Code or any other provision of law, the board may sell up to four hundred fifty million dollars (\$450,000,000) principal amount of the bonds authorized to be issued for the Dinkey Creek Hydroelectric Project and related facilities at the election held in the district on November 3, 1981, pursuant to the Revenue Bond Law of 1941 (Chapter 6 (commencing with Section 54300) of Part 1 of Division 2 of Title 5 of the Government Code) at private sale or at public sale, whichever it determines.

Article 12 (commencing with Section 53590) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code shall not be applicable to the issuance of those bonds if, in addition to any underwriter that has, or has had, a financial advisory relationship with respect to the issuance of bonds, there is an equal managing underwriter that does not have, or has not had, such a financial advisory relationship. (Added by Stats.1985, c. 99, § 1, eff. June 26, 1985; Stats.1985, c. 1033, § 23, eff. Sept. 27, 1985.)

§ 59-34. Bonds; signature

Sec. 34. Each bond, whether a general obligation or revenue bond, shall be signed by the president and secretary then in office at any time between the date of the bond and its delivery to a purchaser from the district, and the seal of the district shall be impressed thereon. The interest coupons shall be signed by the secretary, and the signature of the secretary may be made by facsimile. (Stats.1951, c. 931, p. 2527, § 34.)

§ 59-35. Sinking fund; temporary investment

Sec. 35. Any money in any sinking fund established for the payment of any bonded or other indebtedness and any money of the district not required for the immediate necessities of the district may be invested in bonds issued by the district, bonds issued by any school district, any part of which is in a county containing any part of the district, bonds issued by the State, bonds and certificates issued by the United States, and registered warrants issued by the State. The investment may be made by the purchase of the bonds, certificates or warrants at the original sales or by purchase after they have been issued and may, from time to time, be sold and the proceeds reinvested. Sales thereof shall be made in season so that the proceeds may be applied to

the purposes for which the money with which the same were purchased was allocated.
(Stats.1951, c. 931, p. 2527, § 35.)

§ 59-36. Bond tax

Sec. 36. If the revenues of the district are, or in the judgment of the board will probably be, inadequate for any cause to pay the principal or interest on any bond, other than revenue bonds, or any payment or charge provided in any contract approved by the voters, as it becomes due, the board shall cause a tax to be levied as herein provided, sufficient to pay the amount of such principal, interest, payment, or charge as the same becomes due, which tax shall be known as Kings River Conservation District bond tax. Taxes for the payment of said Kings River Conservation District bond tax shall be levied on the land within the district or improvement district therein, as determined by the board in the resolution declaring the necessity to incur the debt, or on the land charged with the tax under the terms of any contract approved by the voters. (Stats.1951, c. 931, p. 2527, § 36.)

§ 59-37. District tax

Sec. 37. If the revenues of the district are, or in the judgment of the board will probably be, inadequate for any cause to pay any other expenses and claims against the district, the board shall cause a tax to be levied as herein provided sufficient to pay such expenses and claims, which tax shall be known as Kings River Conservation District tax and shall be levied on all land in the district. The tax levied for such purposes during any year shall not exceed two and one-half mills (0.0025) on each one hundred cents of the assessed values of the lands within the district. (Stats.1951, c. 931, p. 2527, § 37.)

§ 59-38. Tax rate

Sec. 38. The board shall determine the amount necessary to be raised by taxation for the payment of principal and interest on any bond and payments or charges under any contract approved by the voters, and shall fix the rate of tax to be levied and the land or lands chargeable therewith which will raise the amount of money required therefor, and shall likewise determine the amount necessary to be raised by taxation to pay other expenses and claims against the district and fix the rate to be levied on land within the district to raise an amount sufficient to pay such other expenses and claims. (Stats.1951, c. 931, p. 2528, § 38.)

§ 59-39. Tax levy; lien

Sec. 39. Within a reasonable time previous to the time when the boards of supervisors of the counties within which the district or any portion of the district lies, are required by law to fix the tax rate thereof, the board shall certify to each board of supervisors of each such county the rate or rates so fixed and the land or lands on which the same shall be levied, with direction that at the time and in the manner required by law for the levying of taxes for county purposes, each such board of supervisors shall levy and collect a tax in addition to such other tax as may be levied by such board at the rate or rates so fixed and determined and on the land or lands so

certified; and it is made the duty of the officer or body having the authority to levy taxes within each such county to levy the tax so required. It shall be the duty of all county officers having the duty of collecting taxes to collect such tax in the time, form and manner as county taxes are collected, and when collected to pay the same to the district. Such taxes shall be a lien on said land or lands and of the same force and effect as other liens for taxes, and their collection may be enforced by the same means as provided for the enforcement of liens for state and county taxes. (Stats.1951, c. 931, p. 2528, § 39.)

§ 59-39.1 Tax exemption; mineral interest

Sec. 39.1. No tax or assessment shall be levied or assessed against any mineral interest which has a separate valuation on the assessment roll, but such tax shall be levied and assessed against the land exclusive of such mineral interest. (Stats.1951, c. 931, p. 2528, § 39.1.)

§ 59-40. Statement of Creation, change of boundaries; filing with assessor

Sec. 40. It shall be the duty of the board to file, or cause to be filed, on or before the first of February, with each assessor whose roll is used for the levy of district taxes and with the State Board of Equalization, a statement of the creation of the district or the creation of an improvement district therein or the change of the boundaries of either thereof, setting forth the legal description of the boundaries of the district or improvement district so created, or as the same have been changed, together with a map or plat indicating such boundaries, and in all other respects to comply with the provisions of Section 54900 to 54903, inclusive, of the Government Code. (Stats.1951 c. 931, p. 2528, § 40.)

§ 59-41. Annexation

Sec. 41. Any portion of a county or of any municipality, or both, consisting of lands susceptible to service of water or power from the works of the district or which will be benefitted by its inclusion within the district and which may consist of several parcels which need not be contiguous with each other or with the boundaries of the district, may be added to the district in the following manner.

A petition, which may consist of any number of separate instruments, shall be filed with the secretary, signed by voters residing within the boundaries of the area proposed to be annexed, equal in number to at least 10 per centum of the number of such voters voting for all candidates for the office of Governor of this State at the last general election prior to the filing of such petition. Such petition shall set forth and describe the boundaries of the area proposed to be annexed and shall contain a prayer that such area be annexed to the district. Within 10 days after the filing of the petition, the secretary shall examine the same and ascertain whether it is signed by the required number of voters, and he may employ persons especially for that purpose in addition to persons regularly employed in his office. When the secretary has completed his examination, he shall attach to the petition his certificate, properly dated, showing the result thereof; and if he shall find that said petition is signed by the requisite number of voters, or is not so signed, he shall certify that the same is sufficient or insufficient, as the case may be. If it be found to be insufficient, he shall also certify the number of voters required to make such

petition sufficient, and it may be amended by filing a supplemental petition or petitions within 10 days of the date of such certificate. The secretary shall, within 10 days after the filing of such supplemental petition or petitions, make like examination of the same and certify to the result thereof, as hereinabove provided.

If a certificate shall show such petition or such petition as amended to be insufficient, it shall be filed by him with the board and kept as a public record, without prejudice however, to the filing of a new petition to the same effect. But if the petition, or petition as amended, is shown by said certificate to be sufficient, the secretary shall present the same to the board without delay. The sufficiency or insufficiency of such petition shall not be subject to review by the board. The secretary shall fix the time when he will present the same to the board and shall cause the text of such petition, together with a notice stating the time of the meeting at which he will present the same, to be published once a week for at least two weeks before the time at which he will present the same in one newspaper of general circulation, printed and published in each county within which any portion of the district lies. When contained in one or more instruments, one copy only of such petition need be published, and no more than five of the names attached thereto need appear in said publication, but the number of signers shall be stated.

The petition may be granted by ordinance of the board, and in granting such petition the board may fix in said ordinance the terms and conditions upon which such annexation may occur, and such terms and conditions may provide, among other things, for the levy by the district of special taxes upon the lands within such annexed area or areas in addition to the taxes elsewhere in this act authorized to be levied, and as a part of such conditions, said board may, in its discretion, provide that the lands, or any portion thereof so added shall be added to and form a part of any improvement district then existing within the district or shall constitute one or more additional improvement district or districts, and may provide for the incurring of a bonded indebtedness by such or any additional improvement district or districts as a condition for such annexation, and may provide for the submission of the proposition of incurring such bonded indebtedness at the election held with respect to such annexation, and may further provide, that, if such bonded indebtedness shall not be authorized, the proposition for annexation of the area contained in such improvement district or districts shall likewise fail. Such conditions may also provide for priority of right to water for the lands theretofore in the district or for the payment of special rates for water or power served the area proposed to be annexed or for such other conditions as to the board seem just. In the event the board should provide for the levy of special taxes, it shall specify the aggregate amount to be raised by such special taxes and the number of years within which the same shall be raised and that substantially equal annual levies will be made for the purpose of raising such sum over the period so prescribed.

If such petition is granted, the proposition of such annexation, subject to the terms and conditions so fixed, shall be submitted to the vote of the voters in the area proposed to be annexed at an election called by the board and held as herein provided within 70 days after the effective date of such ordinance. Notice of such election shall be given by publication in one newspaper of general circulation, printed and published in each county within which any portion of the area proposed to be annexed lies once a week for three successive weeks prior to the date fixed for such election. Such notice shall describe the boundaries of the area or areas proposed to be annexed and shall designate such territory by some appropriate name or other words of identification by which such territory may be referred to and indicated upon the ballot to be used at the election at which the question of such annexation is submitted, and shall also contain the substance of the terms and conditions fixed by the board as herein provided and may also, in the

event the incurring of a bonded indebtedness is one of the conditions of the granting of such petition, submit the proposition of incurring such bonded indebtedness to the voters within the area in which such bonded indebtedness is to be incurred as prescribed by the board. The proposition so submitted at such election shall be stated on the ballot substantially as follows: "Shall (giving name or other designation of the territory proposed to be annexed as stated in the notice of election) be annexed to Kings River Conservation District, subject to the terms and conditions fixed by the Board of Directors of said District?" At the right of such proposition shall be printed the words "Yes" and "No" with voting squares. In the event the question of incurring a bonded indebtedness is to be submitted, the same shall be submitted in like manner as herein provided for the submission of the incurring of a bonded indebtedness by the district or an improvement district therein. The board shall canvass the votes cast at such election, and if such proposition is approved by a majority of voters voting thereon at such election, the president and the secretary of the board shall certify that fact to the Secretary of State and to the county recorder of each county within which any portion of said district is located; provided, however, that if said area, or any portion thereof, proposed to be annexed is required to incur a bonded indebtedness, than, unless such bonded indebtedness be authorized by two-thirds vote of the voters thereof, such area so failing to incur such bonded indebtedness shall be excluded from the certificate submitted to the Secretary of State and to the county recorder and shall not be certified as having been annexed to the district. Upon receipt of the certificate, the Secretary of State shall, within 10 days, issue his certificate reciting the passage of the ordinance and the addition of the area or areas to the district. A copy of said certificate shall be transmitted to and filed with the county clerk of each county in which any portion of the district is situated. From and after the date of such certificate the area or areas named therein shall be deemed added to and shall form a part of the district with all the rights, privileges and powers set forth in this act and necessarily incident thereto, and the taxable property therein shall be subject to taxation thereafter for the purposes of the district, including the payment of bonds and other obligations of such district at the time authorized or outstanding, except bonds for indebtedness previously incurred by an improvement district, unless such liability therefore is imposed by the board as a condition to such annexation. The board shall be empowered to do all things necessary to enforce and made effective the terms and conditions of annexation fixed as hereinabove authorized. (Stats.1951, c. 931, p. 2528, § 41.)

§ 59-42. Exclusion of lands

Sec. 42. (1) Any territory within the district and now or hereafter embraced within the boundaries of an incorporated city and not substantially benefitted by being within the district or by continued inclusion therein, may be excluded by order of the board upon the verified petition of the owner or owners in fee of lands whose area is in excess of one-half of the area of all lands held in private ownership in such territory.

The petition shall describe the territory sought to be excluded, and generally describe the land of each petitioner sought to be excluded, and the land sought to be excluded of each owner of record who does not sign the petition together with the name of its owner according to the records of the county recorder of the county in which the land is situated and shall set forth the reasons why it is claimed that such territory should be excluded and taken from said district. It shall be filed with the secretary.

Upon the filing of the petition, the secretary shall fix a time when the petition will be presented to the board, which shall be not less than 25 days nor more than 50 days after the filing of the petition, and shall cause notice of the filing thereof to be published once a week for at least two weeks in one newspaper of general circulation printed and published in each county within which any portion of the district lies. Such notice shall also state the date of the filing of the petition, a description of the land proposed to be excluded, the names of the petitioners, the time when the secretary will present the petition to the board and that it will come for hearing before the board at such time and shall state the place where the board will meet for the purpose of holding such hearing, and such notice shall also contain an announcement that any persons interested in the proposed exclusion may appear at the time of the hearing and file objections in writing showing cause, if any they have, why the land or any of it should not be excluded. Any landowner or taxpayer or other interested person within the district shall have the right to appear at said hearing either in behalf of said petition or in behalf of said written objections. At the time and place mentioned in the notice or at the time to which the hearing of the petition may be adjourned the board shall hear the petition, all of the objections to it presented in writing, and all evidence introduced in support of the petition and objections. The evidence at such hearing shall be taken down in shorthand and a record made of it and filed with the board. If upon such hearing the board determines that the petition complies with the provisions of this section and determines either that it is for the best interest of the district that the lands mentioned in the petition, or some portion thereof, be excluded from the district or if it determines that such lands, or some portion thereof, will not be substantially benefitted by their continued inclusion in the district, the board shall make an order that such lands, or such portion thereof, be excluded from the district, such order to describe specifically the land so excluded. From the time of making such order, the lands so excluded shall be deemed no longer included in the district, but such order of exclusion shall not invalidate in any manner any taxes or assessments theretofore levied or assessed against the lands so excluded, nor shall it in any way limit the authority of the board to levy taxes for the payment of principal and interest under the terms of any contract approved by the voters or of bonds theretofore voted or issued by the district or any improvement district embracing such lands so excluded. The president and secretary of the board shall certify that such order has been adopted to the Secretary of State and to the county recorder of each county within which any portion of said district is located. Upon receipt of the certificate, the Secretary of State shall, within 10 days, issue his certificate reciting the adoption of such order and the exclusion of the area from the district. A copy of such certificate shall be transmitted to and filed with the county clerk of each county in which any portion of the district is situated.

The expense of giving the notice and of the aforesaid proceedings on exclusion shall be paid by the persons filing the exclusion petition.

(2) Any other territory within the district and not substantially benefitted by being within the district or by continued inclusion therein, may be excluded by order of the board upon the verified petition of the owner or owners in fee of lands whose assessed valuation is in excess of one-half of the assessed valuation of all lands held in private ownership in such territory as shown by the last equalized assessment role.

The petition shall describe the territory sought to be excluded and shall set forth that such territory is not substantially benefitted by being in the district or its continued inclusion therein and shall pray that such territory be excluded and taken from said district. It shall be filed with the secretary and accompanied by a deposit with the secretary of the sum of five hundred dollars

(\$500), to meet expenses of advertising and costs incident to the proceedings, any unconsumed balance to be returned to the petitioner or petitioners.

Upon the filing of the petition, the secretary shall transmit a copy thereof to the Department of Water Resources which shall make an investigation and determine whether the lands proposed to be excluded, or some portion thereof, will not be substantially benefitted by their continued inclusion in the district. In making a determination upon any such petition for exclusion of lands the department shall exercise his own independent judgment as to whether the lands described in the petition for exclusion will be substantially benefitted by remaining in the district, and the department shall not be bound by the findings of the Legislature in this act with respect thereto. Upon completing such investigation, the department shall file its report with the secretary, which shall describe specifically the lands, if any, which will not be so benefitted. The cost and expense of such investigation and report shall be a charge against the district and against the deposit made by the petitioners.

Upon the filing of the report, the secretary shall fix a time when the petition and report will be presented to the board, which shall be not less than 25 days nor more than 50 days after the filing of the report, and shall cause a notice of the filing thereof to be published once a week for at least two weeks in one newspaper of general circulation printed and published in each county within which any portion of the district lies. Such notice shall also state the date of the filing of the petition and the date of the filing of the report and the time when he will present them to the board and that they will come on for hearing before the board at such time and shall state the place where the board will meet for the purpose of holding such hearing. Any landowner or taxpayer or other person interested within the district shall have the right to appear at said hearing either in behalf of or in opposition to the granting of said petition. If upon such hearing the board determines that the petition complies with the provisions of this section and determines either that it is for the best interests of the district that the lands mention in the petition, or some portion hereof, be excluded from the district or if it determines that such lands, or some portion thereof, will not be substantially benefitted by their continued inclusion in the district (and lands which the report of the Department of Water Resources states will not be so benefitted shall be included as such lands by the board in making its determination), the board shall make an order that such lands, or such portion thereof, be excluded from the district, such order to describe specifically the land so excluded. From the time of making such order, the lands so excluded shall be deemed no longer included in the district, but such order of exclusion shall not invalidate in any manner any taxes or assessments theretofore levied or assessed against the lands so excluded, nor shall it in any way limit the authority of the board to levy taxes for the payment of principal and interest under the terms of any contract approved by the voters or of bonds theretofore voted or issued by the district or any improvement district embracing such lands so excluded. The president and secretary of the board shall certify that such order has been adopted to the Secretary of State and to the county recorder of each county within which any portion of said district is located. Upon receipt of the certificate, the Secretary of State shall, within 10 days, issue his certificate reciting the adoption of such order and the exclusion of the area from the district. A copy of such certificate shall be transmitted to and filed with the county clerk of each county in which any portion of the district is situated. (Stats.1951, c. 931, p. 2531, § 42, as amended Stats.1955, c. 1410, p. 2572, § 3; Stats.1957, c. 1932, p. 3452, § 515.)

§ 59-43. Conclusiveness of finding of sufficiency of petition for annexation or exclusion

Sec. 43. A finding by the secretary in favor of the genuineness and sufficiency of any petition for annexation or a finding by the board in favor of the sufficiency of any petition for exclusion of land from the district or in favor of the sufficiency of the notice of hearing of such petition shall be final and conclusive against all persons, except the State of California, upon suit by the Attorney General. Any such suit must be commenced within six months after the adoption of the ordinance or order adding land to or excluding land from the district, and not thereafter. (Stats.1951, c. 931, p. 2533, § 43.)

§ 59-44. District property; tax exemption

Sec. 44. No property of the district used for the purpose of the district and belonging to it shall be taxed or assessed for state, county, municipal or any district purposes. (Stats.1951, c. 931, p. 2533, § 44.)

§ 59-45. Establishment of district; effect

Sec. 45. The establishment of the district or anything in this act contained shall not affect, restrict, nor supersede the existence, property, right or power of any municipality, public district or public agency now or hereafter established in or partially within the boundaries of the district. The Legislature, because of conditions special to the district hereby created, declares its intent to permit within its limits the existence of more than one district and/or municipality having similar powers over similar territory. It is not the purpose of this act to allow the district to claim any underground waters lying within the boundaries of any incorporated municipality therein or to control the use thereof. (Stats.1951, c. 931, p. 2533, § 45.)

§ 59-46. Vested rights

Sec. 46. The formation of the district or the enactment of this act or any provision hereof shall not impair the vested right of any person, association, corporation, municipality or public district in or to water or power or the use thereof; and, notwithstanding any other provision of this act, with respect to the waters of the Kings River, the district shall have no power to condemn the works, water, water rights, rights to divert, or rights to the use of water belonging to any public district, mutual water company, or landowner, or stockholder therein. (Amended by Stats.1979, c. 1108, p. 4008, § 5, urgency, eff, Sept. 28, 1979.)

§ 59-47. Action to test validity of district

Sec. 47. The district, in order to determine the legality of its existence in addition to any other remedy it may have for that purpose, may institute a suit therefor in the superior court of any county within which any portion of its territory is situated, by filing a complaint setting forth its name and exterior boundaries, the date of its organization and a prayer that it be adjudged a legal district formed under this act and shall be entitled "Kings River Conservation District, plaintiff, vs. All Persons, defendants." The summons in such proceedings shall be served by

publishing a copy thereof once a week for four successive weeks in some newspaper of general circulation published in the county where such action is pending. Within 30 days after the last publication of said summons shall have been completed, any property owner or resident or elector in the district or any person interested may appear and answer said complaint, in which case said answer shall set forth the facts relied upon to show the invalidity of the district and shall be filed in such proceeding. Such proceeding is hereby declared to be a proceeding in rem, and the judgement rendered therein shall be conclusive against all persons whomsoever and against the State of California. Appeals may be taken from said judgment in the same manner as in other civil cases. The procedure provided in this section shall be cumulative and not exclusive. (Stats.1951, c. 931, p. 2533, § 47).

§ 59-48. Action to test validity of bonds, tax levy or contract

Sec. 48. An action to determine the validity of bonds, tax levy, or a contract may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure. (Stats.1951, c. 931, p. 2534, § 48, as amended Stats.1961, c. 1516, p. 3358, § 1.)

§ 59-49. Repealed. Stats.1961, c. 1516, p. 3358, § 2

Historical Note

The repealed section,
added by Stats.1951, c. 931,
p. 9534, § 49, related to action

to test validity of contract.
See, now, Code of Civil
Procedure § 860 et seq.

§ 59-50. Partial Invalidity

Sec. 50. In case any section or sections or part of any section of this act shall be found to be unconstitutional or invalid for any reason, the remainder of the act shall not thereby be invalidated, but shall remain in full force and effect. (Stats.1951, c. 931, p. 2534, § 50.)

§ 59-51. Dissolution

Sec. 51. The district may be dissolved in the manner provided for dissolution of districts by the District Reorganization Act of 1965 and pursuant to the dissolution provisions contained therein. Any resolution of application adopted under Section 56195 of the Government Code, shall not be effective to initiate proceedings for dissolution of the district and shall not be filed with the local agency formation commission unless it has first been adopted by the legislative bodies of any two affected counties. The district shall be considered a district within the meaning of all such dissolution provisions of the District Reorganization Act of 1965. (Added by Stats.1968, c. 745, p. 1448, § 1.)